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UNCLAS QUITO 000585

SIPDIS

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SUBJECT: COURT SAGA CONTINUES, PROSPECTS IMPROVE

REF: QUITO 534

11. (SBU) Summary: There are signs that the three-month crisis over the packing of the Supreme Court is nearing resolution. On March 8, President Gutierrez submitted a simplified referendum proposal to Congress. The opposition had favored a law to immediately terminate the current Supreme Court. Despite several attempts, neither the government nor the opposition mustered the 51 votes needed to act. The stalemate finally led to dialogue and on March 10 an anonymous compromise proposal circulated combining the two alternatives. With the possibility of a compromise crossing the aisles in Congress, the PRIAN still resisting change of the Court, compromise could cost the government its defensive alliance. End Summary.

#### Dueling Approaches; President's New Referendum

12. (SBU) The president's current referendum has been reduced from ten to just one question, and proposes to shrink and replace the Supreme Court with another selected by an electoral college consisting of 13 civil society institutions. The PRIAN has objected to the use of an electoral college and called instead for the controversial Supreme Court president to resign to restore the court's legitimacy. Opposition members have criticized the lack of an immediate cessation of the current court, portraying the referendum as a trap designed to string out the current court's term indefinitely. Civil society groups have told us they would support the president's proposal if it were modified with a near-term date the current court would cease to function. Court workers declared an indefinite strike on March 14, effectively shuttering the entire justice system, while calling for the Supreme Court to be replaced.

13. (SBU) Presidential legal advisors have thus far refused to modify the president's new proposal, citing judicial uncertainty should the current court be terminated prior to the naming of a new one. Within the government's congressional alliance, opinions are still mixed. PRE congressional leader Mario Touma has expressed openness to dialogue and compromise to change the court. The PRIAN, however, had publicly opposed any change in the court by means of an indirect electoral college.

#### New Compromise Proposal

14. (U) On March 10, a new, unsigned proposal began circulating. It combined the termination of the current court, declared a judicial vacancy, and qualified the President's referendum proposal as a matter of national urgency. The proposal reportedly had the backing of the main opposition parties (PSC, ID and Pachakutik), and members of the president's PSP and independents.

#### UN Rapporteur Visit Could Help

15. (SBU) After initially denying a request for an earlier visit, MFA Multilateral Affairs U/S Jose Piedrahita claimed the GOE was looking forward to the visit to Ecuador by UN Judicial Rapporteur Leandro Despouy. He expressed hope that Despouy's visit might spur dialogue between opposing factions in Congress on the court issue. Despouy arrived on March 13 to begin a round of talks and will leave on March 17.

#### Comment

16. (SBU) Our efforts to promote dialogue and compromise to government, civil society and opposition leaders appear to be paying off. Perhaps taking the Ambassador's March 7 advice to heart (RefTel), President Gutierrez has noticeably lowered the level of his anti-opposition rhetoric. Prospects for dialogue have certainly improved as a result. Much will depend on the willingness of the government's allies, especially the PRIAN, to release the current court. We understand the government's reluctance to accept a transition period with no top court. But with the justice workers now on strike, we have effectively entered a judicial vacuum. There is clearly some way to go yet, but prospects for a workable compromise are improving.

KENNEY